



Administrative Rules Overview

7/19/2017



Introduction

- This class covers processes for developing DHS administrative rules.
- This is intended to be an inter-active class. The processes that you will learn continue to change over time. Your input in how those processes may be made better are gratefully acknowledged.



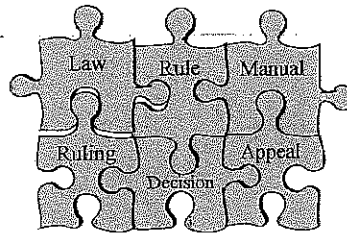
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Administrative Procedures Act (APA)

Iowa Code Chapter 17A :

“Iowa Administrative Procedure Act”

Sets minimum procedures for a state agency to follow when it takes action that affects the rights and duties of the public.



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What is a rule?

A rule is a statement of general applicability that:

- Implements Federal or State law or policy, or
- Interprets Federal or State law or policy, or
- Prescribes State law or policy, or
- Describes the agency's:
 - Organization
 - Procedure
 - Practice requirements



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What gives us the right to make rules?

- Rule making is a delegation of legislative authority
- Administrative rules have the force of law
- An administrative agency has no independent law-making power
- Rule making authority must be expressly delegated by statute
- Agencies can act only within the authority of the statute



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What rules are required?

Rules must describe:

- Agency structure, programs and mission
- Methods for public to get information or make requests
- Nature and requirements of all formal and informal procedures available to the public
- Description of all forms and instructions used by the public
- Standards, principles and procedural safeguards



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Where are the rules?

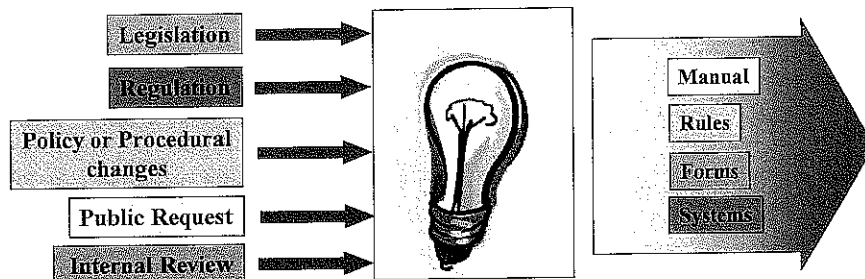
Rules are published by the Legislative Services Agency (LSA) in:

- **Iowa Administrative Code:** The published collection of the administrative rules of all state agencies
- **Iowa Administrative Bulletin:** A biweekly pamphlet announcing rules proposed or adopted by state agencies
- Copies may be found on the DHS Policy Analysis web site: www.dhs.iowa.gov/policyanalysis



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What causes a rule to be needed or clarified?



"In the beginning, there was an idea!"



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What does DHS have to do to make a rule?

- Identify and develop proposed rule changes
- Publish a notice of intended action
- Gather comments from the public
- Submit to administrative and legislative oversight
- Adopt and file final rules
- Publish final rules



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Who has rule-making power?

- Council on Human Services
- Mental Health and Disability Services Commission
- *hawk-i* Board
 - Decides whether to adopt a rule
 - Decides how a rule should be worded



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Who has oversight of rules?

- Council, Board, or Commission
- Governor's administrative rules coordinator
- Attorney General
- Administrative Rules Review Committee (ARRC)
- General Assembly



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DHS staff responsibility

- Develop policy: decide what to do
- Develop procedures: decide how to do it
- Prepare rule changes
 - Draft changes
 - Prepare rule packet
 - Get administrative & fiscal approval
 - Submit to Policy Analysis
 - Review documents
 - Respond to comments



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Policy Analysis staff responsibility

- Work with Policy Staff on proposed rule changes
- Make sure rule is in proper format
- Make sure public hearings are scheduled if needed
- Prepare Notices of Intended Action and Adopted and Filed rule amendments
- File the rule with Governor's office & Administrative Code Editor
- Maintain public rules docket & web site
- Collect and summarize comments



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How long does it take?

For a regular rule:

Notice Phase

- 19 days for initial publication (LSA Editors)
- 35 days for comment after publication

Implementation Phase

- 19 days for final publication (LSA Editors)
- 35 days for implementation
- Add in approval by Council, Board, or Commission

(6 months Total Time)



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How long does it take?

For an emergency rule:

- Adopted with out notice but implemented regularly (4 months)
- Adopted emergency after notice (4 months)
- Adopted without notice and implemented immediately (2 months)



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When can the process be shortened?

- May waive comment period if:
 - Unnecessary
 - Impracticable
 - Contrary to public interest
- May waive implementation period if:
 - Legislation permits it
 - Confers a benefit or removes restriction
 - Imminent peril to public health or safety



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What can the ARRC do?

- Direct the agency to do more consensus building on proposed rules
- Delay the effective date of any part or all of the rule
 - By 70 days
 - Until the end of the next legislative session
- Refer the rule to the General Assembly



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What do I submit to change a rule?

- Administrative Rule Transmittal
- Text of proposed changes
- Information on Rules
- Administrative Rules Fiscal Impact Statement

Available at: Hoover3s1/Policy.771/Rules/help for rules & manual writing/templates



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How do I write a rule?

- Find your rule-making authority (Call Policy Analysis for assistance with this task)
- Find where your rule fits with current rules
- Make your rule match the structure and terms of the text
- Show deleted text by strike-through or new text by underlining



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How is a rule structured?

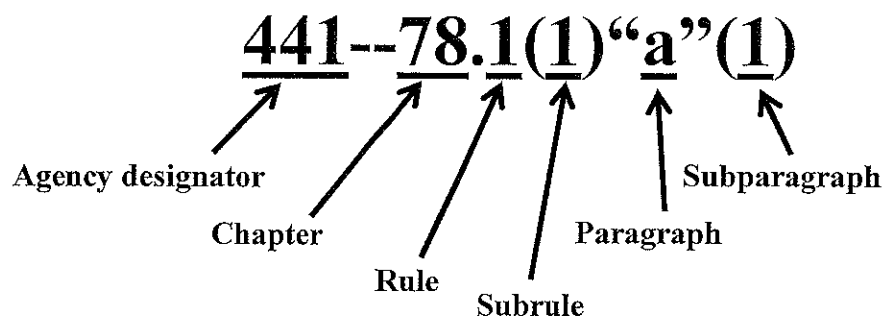
The rule is structured by:

- | | |
|----------------------------|-----------------------|
| • Agency | (Human Services: 441) |
| • Title | (program area) |
| • Chapter | |
| • Division (optional) | |
| • Rule | 441—24.1(225C) |
| • Subrule | 24.3(3) |
| • Paragraph | 24.3(3)“b” |
| • Subparagraph | 24.3(3)“b”(6) |
| • Implementation statement | (by rule or chapter) |



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Elements of a rule naming convention



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Where Do I Get More Information?

- DHS Policy Analysis web site:
<http://www.dhs.iowa.gov/policyanalysis/>
- Iowa Legislative Services Administrative Rules web site:
<https://www.legis.iowa.gov/law/administrative/rules>
- DHS rules share:
Hoover3s1/Policy.771/Rules

